APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/888,085	06/22/2001	Daniel A. Preston	44375/21:1	8100

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EXAMINER
HSU, ALPUS

ART UNIT	PAPER NUMBER
2665	

DATE MAILED: 09/20/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

✗

	Application No.	**Applicant(s)**
	09/888,085	PRESTON ET AL.
Office Action Summary	**Examiner**	**Art Unit**	
	Alpus H. Hsu	2665	,

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on <u>02 June 2005</u>.

2a)☐ This action is **FINAL**.   2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) <u>1-23</u> is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☒ Claim(s) <u>11-16</u> is/are allowed.

6)☒ Claim(s) <u>1-10 and 17-23</u> is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on <u>22 June 2001</u> is/are: a)☐ accepted or b)☒ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____ .

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☐ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
    Paper No(s)/Mail Date _____ .

4)☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____ .

5)☐ Notice of Informal Patent Application (PTO-152)

6)☐ Other: _____ .

1.   In the specification, page 1, paragraph [0001] , the applicant is requested to provide the information regarding the serial no., title, inventor, filing date and **update** the status from time to time for the listed related co-pending application.

2.   The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the claimed system having a data source, a demodulator, and a synchronizer as in claim 1 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

3.   Claims 1-10 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not

described in the specification in such a way as to reasonably convey to one skilled in the relevant

art that the inventor(s), at the time the application was filed, had possession of the claimed

invention.

The claimed feature of "a system for identifying transmission delay in a communication

network comprising: a data source adapted to generate a sequence of bits; a demodulator adapted

to synchronize with the sequence of bits by shifting samples of the sequence of bits until an

optimum synchronization value is generated; and a synchronizer adapted to identify a network

delay value according to the synchronized sequence of bits" as in claim 1 was not described in

the specification in such a way as to reasonably convey to one skilled in the relevant art that the

inventor(s), at the time the application was filed, had possession of the claimed invention. To be

more specific, the data source can be found in element 30 of Figure 4, and the demodulator and

synchronizer can be found in elements 312 and 322 of Figure 19. However, these elements are

not interconnected or interacted to one another to form the system as in claim 1.

4.   Claims 1-10 and 17-23 are rejected under 35 U.S.C. 112, second paragraph, as being

indefinite for failing to particularly point out and distinctly claim the subject matter which

applicant regards as the invention.

In claim 1, lines 4-5, it is confusing for reciting "a demodulator adapted to synchronize

with the sequence of bits by shifting samples of the sequence of bits until an optimum

synchronization value is generated" since the function of a demodulator is for signal

demodulation not synchronization.   Similarly, lines 6-7, it is also confusing for reciting "a

synchronizer adapted to identify a network delay value according to the synchronized sequence

of bits" since the function of a synchronizer is for synchronization not network delay identification.

In claim 17, line 1, "A method system" should be changed to -- A method -- to correct the typographical error.

In claim 18, it is improper for reciting the claim language of "A computer readable medium containing code for identifying network delay, comprising: code adapted to receive tones that represent a sequence of bits; code adapted to sample the tones beginning at a selected sample start time; code adapted to demodulate the sampled tones back into bit values representing the sequence of bits; code adapted to synchronize with the sequence of bits by shifting the sample start time until the sampled tones generate an optimum synchronization value; and code adapted to derive a reference time according to the sample start time at the optimum synchronization value" since a code **cannot** perform any function by itself. It is the **processor** or **computer** operable to execute the program codes in order to perform these desired operations/functions. Furthermore, it is also improper to recite a code comprises a plurality of codes as in the claim.

Claims 19-23 are rejected for the same reasoning as in claim 18.

5.   Due to the nature of 112, 1st & 2nd paragraph problems found regarding claims 1-10, no prior art can be applied at this time.

6.   Claims 17-23 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action.

7.   Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alpus H. Hsu whose telephone number is (571)272-3146. The examiner can normally be reached on M-F (5:30-3:00) First Friday Off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Huy D. Vu can be reached on (571)272-3155. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

AHH

Alpus H. Hsu
Primary Examiner
Art Unit 2665